THE
MOUNTAINEER.

GREAT SALT LAKE CITY:
SATURDAY, FEBRUARY 9, 1861.

SUPREME COURT.

Considering it due to our readers, and especially to those of them who are particularly interested, we propose giving at length the proceedings of, and opinions rendered by the Supreme Court of Utah during their recent term in this city.

It is but due to the two gentlemen who form that tribunal to say that the business brought up for their adjudication was attended to promptly, efficiently, and, we believe, impartially in all cases.

Doubtless it will be considered most unwarrantable presumptuous should we undertake to criticize a trifle upon some of the decisions rendered by that omnipotent tribunal. We have the credit, however, of being rather obtrusive in some matters, and shall now take the liberty of making good our character.

Let us examine for a moment the case of Thorpe vs. the people, in appeal. Upon what principle, we would be pleased to be instructed, can the Supreme Court set aside the proceedings of the court below as illegal throughout, and at the same time endorse and act upon a plea made by the prisoner and appellant in the same court? If the court was illegally held, could any plea made in that court be considered legal? If the court before which Thorpe was tried was illegally held, on what grounds can the superior court recognize any of the proceedings of the subordinate court? If the court before which Thorpe was tried was illegally held it was of course no court at all, and the whole record should be considered a nullity. The correct conclusion must then simply be, that Thorpe should serve out his term of imprisonment or be fully and unequivocally released.

Let us now come to the learned opinion of his honor Associate Justice Crosby in the case of *Enoch Reese et al vs. Thomas Knott.* As to the merits of the case, for or against, we know nothing. We have before us the opinion of his honor. The reversal of the judgment was, of course, a consolation to the appellants, no matter on what grounds that reversal was adjudged. But upon what particular grounds his honor Judge Crosby should establish his opinion in regard to the qualification of jurors we are at a loss to learn. He calls attention to the provisions of the Constitution in article 7 of the amendments. His logic must be of a very singular character if any portion of it can embrace the article quoted. How reads it? Thus:—"In suits at common law, where the value in controversy shall exceed twenty dollars the right of trial by jury shall be preserved," &c.

The preservation of the right of trial by jury was not a question before the court. The eligibility of one of the jurors called for the supreme decision; and we defy the best jurists of the land to say judicially and conscientiously, that we are wrong in our opinion that the verdict for the reason thus assigned was illegal.

It would be a source of real pleasure to investigate fully, calmly and deliberately, all the patent authorities upon the jury laws. We must, however, only give a passing glance at the matter. "Free and lawful men, *liberes et legales homines*," was the requisition of the olden times.

His honor the judge will not deny that the qualifications of jurors must be decided by the legislature, and by them alone.

We regret that he has not well considered the provisions of the constitution to which he has made reference, and the statutory provisions made conformable thereto. His honor has failed to inform us upon what grounds the objection to the non-tax-paying juror was invalid. We have a statute on record and published, approved Jan. 21, 1859, that makes a few legal suggestions in regard to the qualifications of jurors. His honor may be better versed in legal matters than the assembly who passed that law, and His Excellency, who approved it. These gentlemen would doubtless be pleased to be instructed.

We peculiarly admire the cavalier style in which our friend, Judge Crosby, disposes of legal questions. It may not be very much out of place to suggest that his honor should divide his leisure hours and read, at least, one-half the time he studies; and so render his decisions that they may not shame themselves.

In regard to Mr. Thorpe, by all readable and interpretable law, he is released. He is a fool if he stays in the Penitentiary an hour. He was arraigned before no legal court. No legal jury indicted him. No legal jury convicted him. No legal court passed sentence upon him; and who dare say that he is not free to walk abroad? We do not understand the supreme court to be a tribunal of committing magistrates.

A HINT.—We would remind the editor of *The Sarnia Observer and Lambton Advertiser*, that when he inserts any legend or tale from the MOUNTAINEER, signed "*Lambda*," that he prefix the said signature to the production, as the boon fide property of the author.

Local News.

UTAH BAR.

At a meeting of the members of the Utah bar, convened at the private office of Gen .S. C. Stambaugh, on the evening of the 6th inst., W.H. Brodhead, Esq., being called to the chair, and A. Miner, Esq., elected secretary, the following preamble and resolutions were adopted. Eloquent and appropriate speeches were made by several of the members as the resolutions were introduced:

Whereas, for more than six years the Territory of Utah has been, through the neglect or absence of federal judges, deprived of the benefits arising from the holding of a regular term of the supreme court for the Territory; and,

Whereas the present incumbents their honors Chief Justice Kinney, and Associate Justice Crosby, have not only in compliance with the provisions of law, recently held the regular term of the supreme court so provided for; but at the outlay of much time and labor, have carefully prepared their opinions and decisions, and have given them on record, as landmarks to the bar for future practice;

Therefore, Be it resolved, that the thanks of the Utah bar here assembled, as well as on behalf of their absent brethren, are hereby tendered to their honors Chief Justice Kinney, and Associate Justice Crosby, for the labor and zeal so manifest in their recent judicial actions, as also for the interest shown by them in their endeavors to establish a uniform and consistent practice in our courts, and for their general dignified and impartial bearing and conduct on the bench.

Resolved, that the thanks of the members of the bar are due, and are hereby respectfully tendered to Col. Stambaugh, Surveyor General of Utah, as a public officer and gentleman, for the many favors extended to us and others, on this, as well as on many former occasions, ever willing to grant the use of his private office, for the transaction of business connected with national and territorial interests, and particularly for his courtesies to the bar.

Be it further resolved, that the *Deseret News* and MOUNTAINEER be requested to publish these resolutions.

Signed, WM. H. BRODHEAD,
Chairman.

AURELIUS MINER, *Secretary.*

SUPREME COURT DOINGS.

MONDAY, Feb. 4, 1861.

Three opinions were delivered to-day, the first was in the case of Snorts vs. Klumoon. Decision of the court delivered by his honor Judge Crosby. Judgment of the court below affirmed. Chief Justice Kinney read the opinion of the court in the case of Joseph Stone vs. Leonard Savage.

This was a case brought upon appeal from the 2nd district court. The judgment of the Carson court was affirmed.

The case of Theodore Thorpe vs. the people of Utah, on appeal from the court of the 3rd district, which was argued on Saturday, then received the decision of the court. The judgment was reversed, and the plaintiff required to enter into bonds in the penal sum of $3,000 for his appearance at the next regular term of the 3rd judicial district court, and in case the required bail could not be found, Thorpe was to be placed in the hands of the sheriff of G. S. L. County to await the action of said court.

The case of David McKenzie vs. the people of the United States was called up. John C. James, Esq., appeared for the plaintiff in error, and Wm. H. Brodhead, Esq., for the United States. Mr. James argued that the court which tried and convicted his client was not held according to law, that the indictment was never presented in open court, as required by law, therefore that tribunal was no court at all. Mr. Brodhead then presented the government side of the question, to which Mr. James replied and the case was submitted.

The court then adjourned till to-morrow at 11 a.m.

TUESDAY, Feb. 5.

Mr. De Wolf gave notice that he would file a bill of exceptions, in the case of John Reese, et al, vs. Knott.

Mr. Brodhead gave notice that he would file a bill of exceptions in the case of Thorpe vs. the People of Utah.

In regard to the question of costs, in appeal cases, the court ruled that the plaintiff in error in that court would recover his costs, and also the costs of the suit in the court below, as it was by error that he brought his case to the supreme court. Further, that the clerk has a right to demand his fees of the appellant, as the case progresses.

The court then appointed the times and places for holding the district courts for United States business, to wit: First district, in Provo, on the 4th Monday in March, of each year; duration of term, 14 days. Second district, in Carson city, on the 2nd Monday in August, of each year; term, two weeks. Third district, in G. S. L. City, on the 2nd Monday in April, of each year; term, 21 days

The court made the following appointments of U. S. Commissioners for the three judicial districts, viz: 1st district, Isaac Bullock, of Utah county; Charles R. Stebbins, of Cedar county; Timothy B. Foote, of Juab county; Frederick C. Robinson, of San Pete county; John A. Ray, of Millard county, and Wm. Crosby, of Washington county.

2nd district, John C. James, of Virginia city, Carson county.

3rd district, Wm. Bell, Hosea Stout, and David O. Calder, of G. S. L. county; Wm. A. Carter, of Green River county; Samuel W. Richards, of Davis county; Aaron F. Farr, of Weber county; Jonathan C. Wright, of Box Elder county; Ezra T. Benson, of Cache county, and Evan M. Greene, of Tooele county.

Messrs. James and Stout being present, went forward and took the oath of office.

The court then took a recess till 3 p.m.

The case of McKenzie vs. the United States, being the only one now before the court, was called up, and the decision of the court below reversed.

The court directed the clerk to issue an order for McKenzie's release.

Court then adjourned till Monday the 22nd day of April, proximo.

Subsequent to the adjournment of court Messrs. Phelps and Hickman filed bonds on behalf of Mr. Thorpe, whereupon he was released.

SUPREME COURT.

ASA L. KENYON, } In Supreme Court,
vs. } Jan. Term, A. D.
SUSAN KENYON. } 1861, Utah Terri'y.

APPEAL FROM THE DISTRICT COURT FOR CARSON COUNTY.

Opinion of Hon. J. F. Kinney, Chief Justice.

Susan Kenyon filed her petition in the district court for divorce, charging adultery, and praying that the bonds of matrimony between her and her said husband be totally dissolved; also for the care and custody of the children, and for a separate estate out of the property of the defendant.

Kenyon answered, denying the facts charged, and alleged that the petitioner was herself guilty of the crime imputed to him.

A bill of exceptions was taken on the trial by which it seems, among other objections made to the jurisdiction of the court, and overruled, was one, that the district court had no jurisdiction of the action of divorce.

The court decreed a divorce from bed and board, the care and guardianship of the children, and two thousand and five hundred dollars as alimony to the plaintiff.

The defendant appeals, and contends under the statutes of Utah, the district court has no jurisdiction whatever over cases of divorce. Other questions are raised; but this is the only one necessary to consider. Sec. 1, page 163 Revised Laws, is relied upon in support of this position. It provides "That the Court of Probate in the county where the plaintiff resides, shall have jurisdiction in all cases of divorce and alimony, and of guardianship and distribution of property connected therewith."

If this statute is not in conflict with the Organic Act, it is supreme, and must be observed. It is not in conflict, unless it either derogates from the powers exclusively conferred upon the district courts by the act, or confers unwarranted powers upon the probate courts. Part of sec. 9 reads as follows: "And be it further enacted that the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace."

After providing for a supreme court, it states that the Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such time and place as may be prescribed by law, and the judges shall, after their appointments, respectively reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts, and justices of the peace, shall be as limited by law. Then follows an inhibition upon justices of the peace; and the section further provides that the supreme and district courts respectively, shall possess chancery as well as common law jurisdiction.

The judicial power of the Territory is vested in four separate and distinct courts.

The legislation as to one of these courts, that of justices of the peace, is restricted, and confined within certain well defined bounds; but with this exception, the jurisdiction of the several courts shall be as limited by law, except that the legislature cannot curtail the chancery and common law jurisdiction of the supreme, and district courts. No law of the Territory can deprive these courts of the power to exercise this jurisdiction, because it is conferred by a higher authority. The portion of the section under consideration, contains two radical provisions, two insuperable legislative barriers: first against conferring jurisdiction upon justices of the peace, in certain cases; second, against encroaching upon the common law and chancery jurisdiction of the supreme and district courts.

Is the statute conferring exclusive jurisdiction upon probate courts in actions of divorce, an interference with this jurisdiction of the district courts? To arrive at a proper solution of this question, we must inquire what is meant by chancery, and common law jurisdiction. Chancery jurisdiction may be defined to be a judicial power to hear and determine all cases wherein the law, for its universality can not afford relief.

Early in the history of jurisprudence, the administration of justice in the ordinary courts was found to be incomplete, and hence arose the necessity of separate courts of equity, which were organized about the reign of King Edward III., for the purpose of correcting that, wherein the law was defective, and matters of fraud were among the objects to which the jurisdiction of chancery was originally confined.

Soon after these courts were established in England, a fierce struggle arose between the law and equity courts, in relation to the jurisdiction and powers of each; but as we trace the history of English jurisprudence, we find the prejudice which at first existed on the part of the common law courts, yielding to the necessity and utility of a distinctive equity jurisprudence. Arnold vs. Grimes. 2nd G. Greene, 77.

Follow this court from the reign of Edward III., at first feeble, and affording relief in only a very few cases, until it branches out with enlarged powers, and builds up a stately jurisprudence of its own, both in England and America, and with its extended jurisdiction, we venture the assertion that as an equity court purely, without the aid of statute, it has never entertained a case of divorce so as to render a final decree between the parties.

The application for divorce from bed and board, is not necessarily an equity proceeding. It may be either at law or chancery as the legislature may prescribe. In England until very recently it was confined exclusively to the ecclesiastical or spiritual courts, and in the United States the petition is filed either in the chancery or law courts according to the provisions of the statutes of the different states. The celebrated case of Burch vs. Burch, recently tried in Illinois, appears to have been at law, and the entire case tried by a jury. In other states, the chancellor hears and tries the issue, in some instances upon written evidence alone, and in others upon written and oral. We say then that the jurisdiction in divorce cases does not necessarily belong to chancery, and that clause of the Organic Act which confers upon the district courts chancery jurisdiction is not violated by the statute of Utah giving another court the right to try all cases of divorce. But the question arises, is not the common law jurisdiction of the court trampled upon. Common law jurisdiction, we understand to mean the power of the court to hear and determine cases according to the rules of the common law. Statutes are frequently invoked in aid of the common law, but common law courts, as such, are not dependent upon statutes, unless they have become incorporated into, and form part of the common law, which is the case with some of the old English statutes. It is no part of the powers of common law courts, unaided by statute, to grant divorces from bed and board. Cases of this kind do not belong to their jurisdiction, when sitting strictly as common law courts. Opposed to this view we are referred to the case of Wightman vs. Wightman, 4 John Ch. R. 343.

That was a case where the plaintiff married the defendant under a fit of insanity, had never lived with her husband, and had continued under aberation of mind, with occasional lucid intervals.

The question arose before the chancellor whether the court could take jurisdiction, as there was no statute in the state of New York for divorce *a vinculo matrimonii* except in case of adultery, and the cause for divorce must arise after marriage. The learned chancellor declared the contract null and void *ab initio* on the ground that the plaintiff had not the capability to contract, no more than if she had been an idiot. But the court expressly says that the power resides somewhere to declare the contract void, and contends that it must reside in that court, as it has an exclusive jurisdiction, not only over cases of lunacy, but of matrimonial causes. This decision, when properly examined, will be found to sustain the position we have assumed, that proceedings for divorce do not necessarily belong to either the chancery or common law jurisdiction of the district courts.

Two questions only remain for our consideration. First, whether the legislature has granted to the probate court, by giving it jurisdiction in all cases of divorce, more judicial power than it is authorized to confer by the Organic Act. And second, whether the defendant below, after having answered, could raise the question of jurisdiction. The judicial power of the Territory is vested in certain courts. Among those named is the probate court. The jurisdiction of these courts shall be limited by law. We have seen that neither the common law or chancery jurisdiction of the district courts is infringed by providing for the probate court to grant divorces. This being the case it follows that under that clause "limited by law" the legislature has the right to select another forum to try, and clothe another tribunal with the power to hear and determine actions for divorce.

This tribunal is the probate court, and we see nothing incompatible with the provisions of the Organic Act, or the organization of the district courts to prevent the legislature from passing the law conferring exclusive jurisdiction in such cases upon this court. But it may be said that the defendant could not object to the jurisdiction after having answered. This would be true if the court had jurisdiction of the subject-matter, and the judgment did not appear upon the face of the record *coram non judice.*

In the celebrated case of Voorhies vs. the United States 10 Peters 161, the doctrine is well settled, that if the judgment is not warranted by the constitution or law of the land, the most solemn proceedings can confer no right which is denied to any judicial act under color of law, which can properly be deemed to have been done *coram non judice*, that is, by persons assuming the judicial function in the given case without lawful authority. Wright vs. Marsh, Lee and Delevan, 2. G. Greene, 94. The line which separates error in judgment from the usurpation of power is very definite, and is precisely that which denotes the case when a judgment or decree is reversible only by an appellate court, or may be declared a nullity collaterally when offered in evidence in an action concerning the matter adjudicated, or purporting to have been so. In the one case the record is absolute verity, in the other mere waste paper. If then the court below exercised a power not conferred by the Organic Act, or the laws of this Territory, and not inherent in the court, the judgment is void, and may be taken advantage of anywhere or before any court.

It is a principle as old as the law itself, that consent cannot confer jurisdiction, and if the court proceeded to try the case and render the decree in an action over which it had no control, the jurisdiction of which belonged to another court, the answer of the defendant could not confer such jurisdiction, and the judgment is void.

That such is the case, we think we have abundantly shown by the fact that actions of divorce do not necessarily belong to courts of chancery or common law jurisdiction, that they may be provided for by statute, and the judicial power of the territory residing in part with the probate courts, the legislature had the right which they have exercised to give them the exclusive control over these actions.

The decree of the court below is reversed and set aside.

ENOCH REESE *et al* } In Supreme Court,
vs. } Utah Territory,
THOMAS KNOTT. } January Term,
A.D. 1861.

APPEAL FROM THE DISTRICT COURT SECOND JUDICIAL DISTRICT.

Opinion by Henry R. Crosby, Associate Justice.

This was an action of debt, commenced in the district court of the Second Judicial District, upon certain promissory notes, amounting in the aggregate to the sum of $2600, with interest at 5 per cent per month, from Oct., 1854, until paid, and praying judgment at the time suit was brought for the sum thus alleged due of $17,340.

The defendants in answer deny the indebtedness, but admit that the notes were executed by a member of their firm, not on partnership account, but that they were executed by the said member of their firm and given to the several payees thereof for and on account of cattle bought by the said Barnard, of the said several payees, on his own account and for his own individual benefit; and that the said firm, namely Reese & Co., signed thereto, was without their knowledge and consent, and against the express protest made by one of their firm, the defendant Kinsley acting for himself, and the other members of said firm, J. and E. Reese, both to the said payees of said notes, and the said Barnard and the said plaintiff, to whom these several notes were afterwards conveyed, had full notice and knowledge of the fraud thus perpetrated previous or at the time of purchase of said notes.

Judgment was entered by default against the parties not appearing; Enoch Reese, Louis Barnard, and Stephen A. Kinsley, and also on trial against John Reese for the sum of $20,045 33.

The case was removed to this court by writ of error. The exceptions taken below were: 1st. The incompetency of a juror, on the ground of not being a tax-payer as required by law. 2d. The court erred in declining to give the jury the instructions asked for by defendants' counsel.

In the application by the defendant to bring the case to the supreme court, five separate and distinct points of error were assigned; yet it appears from the record of the proceedings of the court below, that there were but two exceptions taken by the defendant.

Whilst all that is necessary to bring a case from an inferior to the superior court is in the absence of any statutory provision prescribing the forms and rules of procedure, simply to file the record, the errors may be assigned in the court above; still these errors must agree with the exceptions taken below, or else be patent on the record, nor is it the duty of this court to inquire into and inspect the records of the court below, and decide wherein the pleadings are defective, and wherein the court erred in its rulings and opinions, when the law has provided all the means and remedies by which a party can take advantage of such defects and errors in the judgment of the court or otherwise at the proper time. (Bennet vs. Davis Morris, 565.) If they are not so taken, they are considered waived. The only points, therefore, so far as exceptions are to be considered, are the two thus made.

The first exception is as to the qualification of one Kinney to serve as a juror. He was challenged by the defendant below on the ground that he was incompetent, not being a tax-payer, and on his *voir dire* answered as follows:

I. That he did not owe taxable property within the territory of Utah, that he was aware of, as he did not know what legally constituted taxable property; that he owned a watch, a mining claim and a tent.

II. That he did not pay taxes within the territory of Utah, that he had never been called upon so to do.

Whereupon the defendants by their counsel challenged said Kinney.

The court overruled the objection and allowed the juror to be sworn and sit in the case. The statute prescribing the qualifications of jurors is relied upon in support of the objection as to the competency or eligibility of Kinney as a juror.

It is true the statute prohibits any person form acting as juror unless he is a tax-payer; but the question arises whether this statute is not in conflict with the constitution of the United States—which provides article VII. Amendments * * * The right of trial by jury shall be preserved.

When the framers of the constitution used the word jury, they used it with reference to its signification at common law, which was a jury of twelve men and householders. Then, has the legislature the right, under this constitutional provision, to restrict or impair the right of trial by jury, by prescribing any terms different from those that constitute a legal jury at common law.

If they have a right to say he shall pay taxes before being eligible, have they not the same right to say that he shall possess any amount of property which they may deem proper, and thus virtually have the effect to exclude many good citizens from a seat in the jury box. Where are we to draw the line if the power to prescribe a property qualification is conceded? Suppose the legislature should say that before a man was eligible he should be worth ten thousand dollars, and certainly they have a right to exempt from taxation all property under this amount, would it not operate in a country where most of the people are from, to the entire exclusion of the right of trial by jury, and no matter, however oppressive this must seem, yet, if you concede to the legislature the power in the one case, you must grant it in the other.

Whenever this question has been raised, it has been decided, we believe, by our highest courts, that the legislature has not the right to affix any terms other than those prescribed at common law for the qualifications of jurors.

The question has often come up where the legislature allowed no less number than twelve men to act as a jury, and where a majority verdict was allowed and where the defendant in a criminal case was compelled to pay a certain jury fee before the trial; and in every instance the courts have condemned and set aside such legislation as an infrigement upon the clause of the constitution which preserves inviolate the trial by jury.

The defendants' counsel in the court below asked the court to instruct the jury that if they find the plaintiff Knott had notice or knew before he took the notes sued upon that they were given by the defendant Barnard on his private account, and for cattle purchased for himself and not for the firm then the plaintiff cannot recover in this action against the defendant John Reese and they must find for the defendants.

The court refused to so charge the jury but substituted the following:

"That if the evidence establishes the fact that if the defendant Barnard bought the cattle for which the notes were given on his private account, and not for or upon the credit of the firm, but for himself, of which the vendors were advised, or had knowledge at the time of the sale, in such cases the plaintiff cannot recover."

The substance of the instruction as given was that if these notes were good in the hands of the original payees James and Jones they were good also in the hands of Knott the assignee, whereas those asked for by the counsel for the defendant below would have raised an equity between the makers and the assignee of these notes which did not exist between the makers and payees, Story on promissory notes sec. 73 and 178.

In both of these exceptions the court must therefore sustain the rulings of the court below; but there is, however, one error patent on the record which is fatal in its nature to the regularity of the proceedings.

The judgment is not in accordance with the complaint—this was an action for debt and the court could have rendered no other judgment upon this complaint but for the original face of the notes and the interest accruing thereon as damages; but in place of this the court has rendered judgment as in assumpsit for the debt and damages combined, and has gone on still farther in error and rendered judgment of interest upon the judgment—the contract becomes merged in the judgment and in the absence of a statute authorizing a judgment to draw interest it was manifest error in the court awarding it.

The judgment of the court below is reversed and the cause remanded.

FOR THE WEST.—Col. Creighton, agent of the Pacific Telegraph Company, left this city on Thursday morning, in company with Major Egan, for California. Mr. Creighton's departure, we learn, has been hastened by the news that there is a powerful influence being used, to prevent the telegraphic wires, destined to unite the Atlantic and Pacific States, passing through Utah. Mr. C. is fully satisfied that this is the best route, and doubtless he will advocate its claims. He has passed over the Butterfield route, some time ago; hence, when he reaches California he will be personally acquainted with both the southern and central routes. We understand that those who oppose the Salt Lake line, wish to have the wires laid via Denver City, El Paso, and thence on to the Butterfield mail route. Utah is in the very heart of this continent, as we, as well as every country-loving American, go in for the *central route! Vive la Utah!*

Eastern News.

A DAMPER ON PATRIOTISM.—About twenty young gentlemen of New Orleans, wishing to display their spirit, determined to wear no cloth except what was manufactured in a Southern State. So they bought some pieces of Kentucky jeans, and had it made up into suits, but they discovered, when too late, that the Kentucky jeans had been made in Massachusetts.

PENNSYLVANIA LEGISLATURE.

THE legislature met at Harrisburg, Pa., and, on January 2nd, received the Governor's message. His Excellency declares the doctrine of secession erroneous. The Constitution is something more than a mere compact. Organized resistance to the federal government is rebellion. If successful it may be purged of the crime by revolution, if unsuccessful the persons may be executed as traitors. But while denying the right of a state to absolve its citizens from allegiance to the federal government, nevertheless it is proper that we carefully and cordially examine the reasons alleged, and if they are well founded, they should be unhesitatingly removed, and reparation for the past and security for the future, made. For a Government created by the people, should never do injustice to any of its citizens. Pennsylvania being included in the states alleged to have refused compliance with the fugitive slave law, he unhesitatingly avows that the State has been almost invariably influenced by a high regard for the right of her sister States. After examining the present State law he says there is nothing to prevent the removal of the act of 1826, leaving to the claimant a right to seek for a remedy under the state or federal laws. He recommends that the consent of the State be given, to the master, while sojourning in or passing through Pennsylvania, to retain the services of the slave. He suggests the re-enactment of the Missouri compromise, and that the line be extended to California, thereby amending the Constitution. He also recommends that the legislature instruct our representatives in Congress to support such an amendment, to be submitted to both of the State Conventions for ratification. And if Congress fails to propose let it emanate from the people. He closed by declaring that Pennsylvania is devoted to the Union and will follow the stars and stripes through every peril. He adds, but before assuming the solemn duty of Pennsylvania to remove every just cause of complaint, so she can stand before high heaven without fear and without reproach, and then she is ready to devote her lives and fortunes to the best form of government ever devised by the wisdom of man. Though a dark cloud now rests upon the Union, my hopes and affections still cling to it. My prayer is, that He who orders the destinies of nations when he shall leave us for our sins, will again have mercy upon us, and bind us in tighter, stronger and more hallowed bonds of fraternity, so that the Union may remain unbroken throughout all future time.

PROFIT AND LOSS.

Under the above caption, a "True Southerner," writing from Miss., gives to the N. Y. *World*, the following view of the consequences of the dismemberment of the Union:

PROFIT TO THE SOUTH.

1. She could make the most ample provisions for the protection and perpetuation of slavery.

2. She could better develop her mineral and manufacturing interests.

3. Her sea-ports would soon expand into populous cities.

4. Genius and enterprise could be fostered and developed.

LOSS TO THE SOUTH.

1. All those territories which have brought the present crisis upon the country.

2. All slaves, when they crossed the borders, would be free.

3. A portion, if not the whole, of several of the border states—for if a state has a right to secede from the nation or government which it helped to form, and of which it constitutes a part, so, also, has a county or a part of a state an equal right to secede and set up independently.

4. The government of each section would cost nearly as much as that of the whole Union—hence heavy taxation.

5. Constant agitation, and probably disruptions from the advocates of ultra state rights—of the slave trade and of filibustering expeditions against Mexico and the West Indies.

PROFIT TO THE NORTH.

1. She would gain the southwestern territories, which otherwise would be southernized.

2. Tens of thousands of operatives, who now spend their lives in factories, would be compelled to go forth and populate the magnificent valleys and plains of the West, and there, amid nature's profuseness, develop a freer and nobler manhood.

3. Northern Missouri, Virginia, Maryland, and Delaware would be likely to adhere to the North.

Eventually she would obtain all British and Russian America.

LOSS TO THE NORTH.

1. Her manufacturing interests would be almost irreparably ruined.

2. Her commerce would wane.

3. Her great commercial cities would halt in their gigantic strides.

4. Her streets and almshouses would be crammed with the poor and starving.

5. Heavy taxation to support the government would grind down all classes.

CONCLUSION.

These are the results which would naturally follow; but let war once arouse all the demoniac passions of civil war, and then—we desist, in hopes that the good sense and true patriotism of the people will prevail, that no pen may be called to portray what lies beyond.

Vive republica, esto perpetua!

LATEST TELEGRAPHIC
BY PONY.

[We are again indebted to the gentlemen forming the Pony club of this city, for the use of the dispatches received by them on the 5th, bringing Washington news up till the p.m. of the 29th ult. The dispatches, we consider, are simmered down as much as justice to the importance of the news would warrant; and while there may be contained in them items which to some may seem of little importance; yet, we feel assured, that the most of our readers will watch with increasing interest every, even the smallest item connected with the current news of our national history, and still greater and more intense must be the interest as the great inaugural day draws nigh.

The dispatches we now publish, cover all the grounds of any importance to which those received by the *Pony* on Monday refer; hence, we only publish those of the more recent dates.]

BATON ROUGE, Jan. 26.

At ten minutes past 10, this morning, the vote on the ordinance for secession was taken; result, yeas 113, nays 17. The convention was adjourned to New Orleans.

NEW ORLEANS, Jan. 26.

Cannon are being fired, and the Pelican flag is everywhere unfurled. There is great excitement. Returns from Texas thus far indicate an overwhelming majority for immediate secession.

AUGUSTA, Ga., Jan. 26.

Salutes are being fired for the independence of Louisiana.

LOUISVILLE, Jan. 27.

The Kentucky legislature yesterday almost unanimously adopted the Virginia resolutions, so construed as to require the federal government to protect slavery in all the territories now held, or hereafter to be acquired, north of 36 deg 30 min., and to guarantee the right of transit of slaves through free states.

RICHMOND, Va., Jan. 26.

The House to-day passed a resolution sending commissioners to the Southern convention at Montgomery, Alabama. It will pass the Senate. The proceedings otherwise were of an uninteresting character.

MONTGOMERY, Ala., Jan. 26.

The state convention will adjourn on Tuesday till the 4th of March.

CHARLESTON, S. C., Jan. 26.

The Senate adopted a resolution to-day, authorizing the government to send volunteers to the assistance of Florida, if needed in case of threatened invasion. The number of men is unlimited. The steamer Columbia went ashore on Sullivan's Island beach yesterday morning while going out. The weather has been tempestuous for a week past.

PHILADELPHIA, Jan. 26.

Although a deep snow covers the streets to-night, rendering pedestrianism most uncomfortable, the mass meeting of working men of the city, at Independence Square, was largely attended. Some five or six thousand men stood ankle deep in snow, listening to speeches from their representatives. The employees of all the large manufacturing establishments of the county marched to the place of meeting, bearing torches and accompanied by bands of music. The mottoes inscribed on the banners were mostly suggestive of a peaceful reconciliation and solution of the present national difficulties, and expressive of approbation of the Crittenden plan of compromise. Isaac V. Van Haughton, superintendent of the Pennsylvania railroad carriage works, presided over the deliberations of the meeting. A series of ably written resolutions were read and unanimously adopted, lamenting present national troubles, inaugurated and hastened by political demagogues;